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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,383	11/19/2003	Robert Teberg	1713973	7520
24240	7590	12/17/2007	EXAMINER	
CHAPMAN AND CUTLER 111 WEST MONROE STREET CHICAGO, IL 60603			MEYERS, MATTHEW S	
		ART UNIT	PAPER NUMBER	
		3629		
		MAIL DATE	DELIVERY MODE	
		12/17/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/717,383	TEBERG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Matthew S. Meyers	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 November 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6, 9 and 10 is/are pending in the application.
  - 4a) Of the above claim(s) 9 and 10 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. This action is in response to applicant's communication on 11/02/2007, wherein claims 1-6 are currently pending and 9-10 have been constructively withdrawn.

***Response to Amendment***

2. Newly submitted claims 9-10 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: newly amended independent claim 1 accepts information that is damaging to one of said public or private bodies; maintains anonymity through an international global network by which the reporting person cannot be identified; communicating sufficient information from the reporting person to the affected entity to confirm knowledge of the misconduct and its perpetrator and offering more complete information if a reward comprising a part of the damage to be recovered is agreed to; and passing at least a portion of the reward when received by the independent service organization to one of the reporting person and a third party designated by the reporting person. In contrast, originally present claim 1 operates an independent service organization which a person *may or may not* submit a report; negotiates; and collects a reward.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 9-10 are withdrawn from consideration

as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3. The amendment filed 11/05/07 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "...within an entity, and not as seller and customer" Applicant makes no reference to any negative limitation such as this in the specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Priority***

4. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 1-6** are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: Determining whether too issue a reward on behalf of the victim. The claims as written, result in a reward every time a

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person makes a report. Examiner maintains that a determining steps would be integral to the present invention, otherwise any user wishing to submit a report would end up with a reward. The only limiting factor being what the negotiated value is. Therefore, claims 1-6 stand rejected under §112, second paragraph.

7.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Shoo (US 5,895,450).**

10. With respect to **Claim 1:**

Shoo discloses a method of facilitating "whistle-blowing" by one or more anonymous individuals, the method comprising the steps of:

operating an independent service organization to which a person or persons may anonymously submit a report or specific instances of fraud, misconduct, error, and other victimization within an entity, not as seller and customer, of and by other persons or entities (Shoo col. 1, lines 56-62, "the present invention provides a method and apparatus for handling complaints that allows complainants to lodge anonymous complaints against subjects, informs

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the subjects of the complaints, permits the subjects to respond to the complaints, encourages settlements of the complaints and holds the parties to the complaints accountable for their conduct while attempting to resolve the complaints."),

negotiating with at least one of the victimized and victimizing person or entity to obtain a reward on behalf of the person or persons making the report (Shoo col. 5, lines 12-19, "...it can be used as a private message area or as a password for entry into some type of private forum for negotiations between the complainant and the subject. This allows the complainant and subject to privately negotiate a settlement to the dispute without requiring the complainant to meet the subject face-to-face."), and

collecting said reward from the victimized person or entity either directly for the reporting person or persons anonymously or indirectly by donating it on behalf of the reporting person or persons to a nonprofit or governmental entity specified by the reporting person or persons (Shoo col. 12, lines 15-24, "At any time during the use of the apparatus, the program may require any of the users to pay a fee. For example, the program may require a user to pay a fee before posting a complaint or require a subject to pay a fee before posting a response to a complaint. A portion of these collected fees can be used to pay or reward, and thus encourage judges, jurors, and third party witnesses to participate in a complaint resolution process.").

11. With respect to **Claim 2:**

Shoo discloses wherein the reward is collected and passed to the specified entity on behalf of the anonymous reporting person or persons, and the reward is acknowledged by the specified entity's publishing notice of the donation by the independent service organization with a code chosen by one of the organization and the reporting person or persons, thereby giving notice of completion of the whistle blowing process (Shoo col. 2, lines 7-13, "The central computer is also programmed to provide public access to the data records to permit viewing of the corresponding complaints, responses, and settlements for allowing other users to gauge the conduct of the subjects and to encourage the subjects to respond to the complaints in a timely and satisfactory manner.").

12. With respect to **Claim 3:**

Shoo discloses wherein anonymous communication is provided between the service organization and the reporting person or person by way of postings on a publicly accessible bulletin board of the service organization (Shoo col. 2, lines 7-13, "The central computer is also programmed to provide public access to the data records to permit viewing of the corresponding complaints, responses, and settlements for allowing other users to gauge the conduct of the subjects and to encourage the subjects to respond to the complaints in a timely and satisfactory manner.").

13. With respect to **Claim 4:**

Shoo discloses wherein the bulletin board is an electronic one that is accessible over a global communications network and the reporting person or person selects his, her, or its own identifying code (Shoo col. 2, lines 63-66, "The method of the present

invention is preferably implemented with a programmed central computer, a plurality of access terminals, and a communications network coupling the central computer with the access terminals." and col. 6, lines 43-46, "the apparatus 10 does not disclose the actual names of the complainants to the subjects so that the complainants may remain anonymous. This further encourages users to file complaints with the apparatus.").

14. With respect to **Claim 5:**

Shoo discloses wherein the information is offered to the victimized person or entity and a reward is negotiated by the organization with the victimized person or entity for providing the information (Shoo [abs], "...a routine for negotiating a settlement of the complaint.").

15. With respect to **Claim 6:**

Shoo discloses wherein the organization retains a fee from the reward monies and transfers only the balance to reporter or the specified entity (Shoo col. 12, lines 15-24, "At any time during the use of the apparatus, the program may require any of the users to pay a fee. For example, the program may require a user to pay a fee before posting a complaint or require a subject to pay a fee before posting a response to a complaint. A portion of these collected fees can be used to pay or reward, and thus encourage judges, jurors, and third party witnesses to participate in a complaint resolution process.")

16. With respect to **Claims 7-8:**

17. Cancelled

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***Response to Arguments***

18. Applicant's arguments filed 11/02/2007 have been fully considered but they are not persuasive.

19. With respect to applicant's argument that Shoo has "nothing to do with whistle-blowing", Examiner respectfully disagrees. Shoo is directed towards a method for handling complaints. An ordinary dictionary defines complaint as,

*American Heritage Dictionary – Cite This Source – Share This*

**com·plaint**  (kəm-plänt') [Pronunciation Key](#)

n.

1. An expression of pain, dissatisfaction, or resentment.
2. A cause or reason for complaining; a grievance.
3.
  - a. A bodily disorder or disease; a malady or ailment.
  - b. The symptom or distress about which a patient seeks medical assistance.
  - c. The presentation by the plaintiff in a civil action, setting forth the claim on which relief is sought.
  - d. A formal charge, made under oath, of the commission of a crime or other such offense.

Under the broadest reasonable interpretation of applicant's claims, it is reasonable to interpret claim 1 broadly as a complaint. Moreover, Shoo does contemplate using his method within a single corporation with a plurality of directly coupled computers or access terminals without a telecommunications network (Shoo col. 19, lines 13-16). Therefore, it is inherent within Shoo that the "complaint" can be directed towards a report of specific instances of fraud, misconduct, error, other victimization, or any other number of applications which a user would want to submit anonymously.

20. With respect to applicant's argument regarding the reward, Examiner respectfully disagrees. Shoo discloses "A portion of these collected fees can be used to pay or reward, and thus encourage judges, jurors, and third party witnesses to participate in a

complaint resolution process." (Shoo col. 12, lines 15-25). Additionally, since Shoo discloses that "a portion of these collected fees can be used...", it would be inherent that the system would be able to transfer portion of the reward as it deemed fit.

21. With respect to applicant's arguments regarding claims 3-4, Examiner respectfully disagrees. Shoo discloses the apparatus does not disclose the actual names of the complainants to the subjects so that the complainants may remain anonymous. (Shoo col. 6, lines 33-46).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Walker et al. (Pub. No.: US 2001/0034708).

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Meyers whose telephone number is (571)272-7943. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571)272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSM  
12/11/07



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